

KANSAS PAROLE BOARD ANNUAL REPORT FISCAL YEAR 2005

Purpose of the Annual Report

This Annual Report is published by the Kansas Parole Board in accordance with K.S.A. 22-3710 and is designed to provide both general and specific information to the Governor, the State Legislature, the Judiciary, other criminal justice agencies and the public.

About the Kansas Parole Board

The Kansas Parole Board plays a very significant role in the two sentencing systems that presently govern those confined by the Kansas Department of Corrections. Under the indeterminate release structure, the Parole Board determines when an incarcerated inmate will be released. Furthermore, the Board establishes supervision conditions of parole and conditional release; discharges successful parole and conditional releasees from supervision upon the recommendation of the Parole Officer; and revokes the release of those who have violated the conditions of their supervision.

On July 1, 1993, the legislature enacted the sentencing guidelines system. In this process, the Parole Board was given the added responsibility of establishing conditions of supervision for offenders released on post release supervision. The Board is also responsible for revoking those individuals who have violated their conditions of release.

Under both systems, the Parole Board has the responsibility to review Executive Clemency applications and make recommendations to the Governor regarding the clemency.

The Parole Board strives to cooperate fully with all criminal justice agencies for the continuing advancement of criminal justice and public safety in the State of Kansas. The Board also strives to

be accessible to victims of crimes and other concerned citizens, and to be receptive to their input.

Historical Overview of Kansas Parole

The system of early release of inmates, which we know today as "parole," can be traced to as early as 1864. At that time the Governor, vested with constitutional authority, enjoyed the power to commute or reduce an inmate's sentence when deemed appropriate and advisable. To offer assistance to the Governor, the 1885 Legislature created a Board of Pardons, whose function was to review commutation or pardon applications and report their recommendations to the Governor. This was a three-person Board, which met four times per year at the State Capitol. Each member received \$5.00 per day for compensation.

In 1901, the Legislature again addressed the area of early release of inmates and empowered the Governor to set certain inmates free under circumstances and conditions quite similar to today's parole. In fact, this legislation was the first to ever use the word "parole." The Governor was required to make certain findings before authorizing an inmate's release under this system. He had to be convinced that the inmate had served an adequate amount of time to be reformed. The Governor also had to find that the inmate could be released without endangering the community and that the inmate could find suitable employment upon release.

As with today's parole, conditions were attached to this privileged release. The inmate was required to report regularly to the Warden; refrain from using intoxicating liquors and gambling; refrain from frequenting places where intoxicating liquor was sold or where gambling occurred; and refrain from associating with criminals and unworthy associates. An inmate could be incarcerated for violating these conditions and might not again be released until the expiration of his sentence - a much stricter requirement than today.

It was not until 1903 that a release procedure was adopted that was independent of the Governor's power. The Legislature created a Prison Board comprised of the Board of Directors and the Warden of the Penitentiary. The Board could parole inmates who had served their minimum sentences and had secured residence and employment. Conditions were attached to those releases and revocation was available when conditions were violated.

Over 50 years passed without substantive modifications in the Prison Board or its power. In 1957, however, the Prison Board was abolished and the Board of Probation and Parole was created. This Board had five part-time members who were appointed by the Governor and confirmed by the Senate. No more than three could share the same political affiliation and the membership had to include an attorney, a minister, a businessman and a farmer, with the fifth member being chosen at-large.

The Board size was decreased in 1961 to three members, who received an annual salary as opposed to the previous per diem allowance. As before, the appointments were made by the Governor and approved by the Senate. The authority to grant or deny parole, and the powers attendant therewith, were vested exclusively in this Board while the Governor retained control over pardons and commutations. After a century of development and growth, the parole system finally emerged. It

was allowed to separate from the Governor's authority and was acknowledged as an independent entity.

The Board of Probation and Parole had the responsibility not only to decide whom to parole, but also to supervise those placed on parole and those whom sentencing judges had placed on probation. That supervising task remained with the Board until 1974. At that time the Board of Probation and Parole was abolished and replaced by the Kansas Adult Authority. This Board had five members, with no more than three permitted to be from the same political party. One member was required to be an attorney, and two of the others from the fields of medicine, psychiatry, sociology, or psychology. With the removal of parole and probation supervision from its jurisdictions, the Board focused on parole decisions, policies, and procedures; revocation of parole violators; discharge of parolees from supervision; and review of pardon and clemency applications.

Formation of the Kansas Parole Board

In 1979 the five-member Board became full-time employees of the State of Kansas. In 1983 the Governor reduced the Board to three members and the name was changed from the Kansas Adult Authority to the Kansas Parole Board effective January 1, 1986. In 1988 the Legislature returned the Board to five members.

During the 1997 Legislative session, the Board was reduced to four full-time members. This reduction became effective in June 1997. Effective July 1, 2003 the Legislature once again reduced the Board to three full time members.

Composition of the Kansas Parole Board

During FY 2005, the Kansas Parole Board consisted of three full-time members. Members are appointed by the Governor, with the advice and consent of the Senate and no more than two members may belong to the same political party. Members serve staggered four-year terms and represent diverse backgrounds, professional training, and experience. The Kansas Parole Board Members who served at any time during Fiscal Year 2005 are listed below:

Biographical Sketches of the Kansas Parole Board FY 2005 Membership

Marilyn Scafe, Chairperson, was appointed to the Kansas Parole Board on February 20, 1995. She graduated from Kansas State University with a degree in Education and taught English on the secondary level. She has been a probation and parole officer with the state of Missouri and remained active as a volunteer and past president of the Missouri Probation and Parole Citizens' Advisory Board. She co-founded and then became director of the offender program, Metropolitan Community Service Program that is now a program under the Kansas City Crime Commission. Ms. Scafe

is past president of the board of the National Council on Alcohol & Drug Dependency for metropolitan Kansas City and is past vice president of the Board for Kansas Family Partnerships. She has 13 years of advertising sales experience and is a director of the First National Bank of Kansas. Ms. Scafe is a member of the American Correctional Association, American Probation and Parole Association, and the Kansas Correctional Association. She has served as regional vice-president and president of the Council of Chairs of the Association of Paroling Authorities International, and is currently the president of this professional organization. Ms. Scafe is a member of the Kansas Sentencing Commission as well as President of the Kansas Council on Interstate Compact for the supervision of adult offenders.

Larry Woodward, Vice Chairperson, was appointed to the Kansas Parole Board on August 12, 1996. He has served over 26 years in the field of mental health and substance abuse treatment. He has been employed as the Director of Social Work at Stormont Vail Regional Medical Center for nearly 15 years and was regional Vice-President of Psychiatric Centers of America for nearly 5 years. He has also been employed as the Clinical Director for the substance abuse program at Fort Riley. Additionally, Mr. Woodward has worked as a clinical social worker, and more recently as a marketing representative for the Menninger Clinic of Topeka with nearly 10 years of service at Menninger's. He has earned a Bachelor's Degree in Social Work from Washburn University and a Master's degree in Social Work from the University of Kansas. Mr. Woodward has also served 4 years as a Shawnee County Commissioner and has served on numerous boards and committees in the Shawnee County community. He has previous experience in the criminal justice field holding positions at the Shawnee County Juvenile Court as a Juvenile Probation Officer, the Shawnee County Detention Center and at the Boys Industrial School in Topeka. Mr. Woodward is a life-long resident of Topeka, Kansas. He was named Vice-Chairperson in May 2000.

Paul Feleciano, Jr., Member, was appointed to the Kansas Parole Board on September 15, 2003. Mr. Feleciano served 4 years in the House of Representatives and 27 years as a senator from Wichita. He has served in numerous leadership positions in the Kansas Senate including Minority Whip and Assistant Democratic Leader. Mr. Feleciano served on various committees including Ways and Means where he served on the subcommittee for correctional institutions. At the National level, Mr. Feleciano served as the President of the National Hispanic Caucus of State Legislatures. He served on the Council of State Government, as a member of the Intergovernmental and Executive Committees. In 1994, he received the "National Leadership Award" by Hispanic Magazine and in 1995, Hispanic Today named him its "Man of the Year". In March 2004, the United States Hispanic Chamber of Commerce honored Mr. Feleciano with the Lifetime Achievement Award. Mr. Feleciano served in the United States Air Force. He studied Petroleum Technology at New York Community College and was conferred an Applied Arts and Science Associate Degree. Feleciano is currently CEO and president of Global One Technologies, Ltd. He is a member of American Legion Post #401 and of the West Side Democrats Club. He is a Past President of the Wichita West Lions Club and former Board Member of the Kansas International Museum.

Robert Sanders, Member, was appointed to the Kansas Parole Board September 23, 2004. He was employed by the Kansas Department of Corrections for 27 years. He began his career with the Department of Corrections in July 1977 as a Corrections Officer at Hutchinson Correctional Facility. He also held a variety of positions with the Department including Corrections Counselor I, Corrections Counselor II, Community Program Consultant, and State Director of Community Corrections. In May 2000, he was appointed to the position of Deputy Secretary for Community and Field Services and he remained in that position until September 2004. Mr. Sanders graduated from Bethany College with a Bachelor of Arts degree in May 1977. He completed the requirements for the Certified Public Manager Program from the University of Kansas in December 1997. Additionally he completed the Correctional Leadership Program sponsored by the National Institute of Corrections in 1997. He is Past President and member of the Kansas Correctional Association, member of the American Correctional Association, member of the American Probation and Parole Association, member of the National Association of Blacks in Criminal Justice, and member of the Association of Paroling Authorities, International.

The Parole Process

Public Comment Sessions

During FY 2005, the Kansas Parole Board conducted monthly Public Comment Sessions in the cities of Wichita, Topeka, and Kansas City. The sessions provide an opportunity for Board members to receive written and oral input from victims, victims' families, inmates' families, community members, and other interested persons regarding the possible parole of inmates. Notice of the Public Comment Sessions and a list of relevant inmates are mailed by the Board to newspapers for publication as a public service, and to District Attorney/Victim Witness Coordinators and related correctional agencies across the State. In addition to this method of notice, Department of Corrections' staff cooperates with the Board by notifying victims of personal injury crimes of these sessions. (K.A.R. 45-6-1 Aa(3)).

Parole Eligibility

Inmates under the indeterminate sentencing structure become parole eligible after serving the minimum sentence, less good time credits. The good time credits are calculated according to statute. Currently, good time is earned at a rate of 1 day for every day served for sentences with a minimum of 2 years; in other words, an individual will become eligible at half of his/her minimum sentence if all good time is earned. For sentences with a 1-year minimum, parole eligibility is reached after serving 9 months.

The Parole Hearing

By statute, the Board must conduct a parole hearing during the month prior to the inmate's parole eligibility date with the inmate present if he/she is incarcerated in Kansas. This appearance does not necessarily mean that the inmate will be released on parole. Parole eligibility is viewed by the Board as distinctly different from parole suitability.

During the parole hearing the inmate is given an opportunity to:

- ◆ Present to the Board the inmate's version of the offense and any mitigating or precipitating factors;
- ◆ Discuss the inmate's prior criminal history;
- ◆ Discuss the progress the inmate has made and the programs that have been completed, including those that are a part of the inmate's Program Agreement;
- ◆ Discuss the precipitating or mitigating factors of any Disciplinary Reports the inmate has received while incarcerated;
- ◆ Discuss the inmate's problems and needs;

- ◆ Present and discuss a parole plan;
- ◆ Discuss other matters that are pertinent to consideration of parole release;
- ◆ Present other reasons the inmate believes makes him/her ready for parole.

Parole hearings provide the Board an opportunity to review all available reports and material pertinent to the case, as well as to question the inmate directly about relevant issues and to make an assessment of the inmate and his/her readiness for parole.

The Parole Decision-Making Process

Kansas Law stipulates that the Board may release on parole those inmates who have satisfactorily completed the Program Agreement, required by the K.S.A. 75-5210a, whom the Board believes are able and willing to fulfill the obligations of a law-abiding citizen, and when the Board is of the opinion that there is a reasonable probability that the inmate can be released without detriment to the community or to the inmate. (K.S.A. 22-3717 (e)).

In making its decision, the Board is required by statute to consider the following seven areas:

- Crime (K.S.A. 22-3717 (h));
- Prior Criminal History (K.S.A. 22-3717 (h));
- Program Participation (K.S.A. 22-3717(h));
- Disciplinary Record (K.S.A. 22-3717 (h));
- Parole Plan (K.S.A. 22-3717 (h));
- Comments Received from the Victims, the Public and Criminal Justice Officials (K.S.A. 22-3717 (h));
- Prison Capacity (K.S.A. 22-3717 (h)).

In addition to soliciting comments from violent crime victims, comments are solicited from public officials regarding the inmate's possible parole. These officials include the Prosecuting Attorney, Sheriff's Department, Police Department, and the sentencing judge from the county or counties in which the inmate was convicted. This information is made available to the Board at the inmate's hearing.

These considerations take into account the welfare of the community and public safety in determining the optimum period of time for parole release of an individual inmate. The parole decision is representative of the criminal justice system and governmental guidelines and is an attempt to reflect the general attitude and opinions of law enforcement and the community at large.

Before granting parole, the Board determines whether or not an offender has demonstrated appropriate behavior which ensures a reasonable opportunity to succeed socially and economically. The Board takes into consideration the individuality of offenders on a case-by-case basis.

The Board can make one of three basic decisions at a parole hearing. These decisions are *parole*, *continue* or *pass*. The Board can decide to "parole" when it believes the inmate is suitable for release. Decisions are made by majority vote.

Secondly, the Parole Board can decide to "continue," which is to postpone making a decision to parole or pass the inmate. This action is made to facilitate further deliberation or receipt of information, when it requires a more in-depth review or discussion of the case. The Board may also continue for additional votes necessary for a majority decision. Other times, it may continue for the inmates to undergo an evaluation to assess the inmate's mental health. Once the reason for the continuation is satisfied, a determination as to whether or not to release the inmate is made.

The third decision is to "pass" for a particular period of time, which is a denial of parole. The maximum period for which the Kansas Parole Board may pass offenders convicted of A or B felonies or off-grid offenses is 10 years, if the Board can provide reasons as to why it is not believed that the inmate would have been granted parole otherwise. Previously, offenders convicted of such offenses could only be passed for up to 3 years.

For offenders convicted of offenses other than A or B felonies or off-grid offenses, the Board may issue a pass for a period up to 3 years, provided the Board can give reasons as to why it is not believed that the inmate would have been granted parole otherwise. Previously, offenders convicted of such offenses could only be passed for up to one year.

Appeal

An inmate has the right to appeal a parole decision under authority of K.A.R. 45-200-2, when he/she can present "new evidence which was unavailable at the prior hearing." The appeal must be made in writing and specify the new evidence upon which the inmate relies. Those that meet the outlined criteria are reviewed by the Kansas Parole Board so that a decision can be made regarding the appeal. Once a decision has been reached, the offender is notified of the decision of the Board.

Conditional Release

A conditional release is the date when an inmate under an indeterminate sentence must be released, because he/she has served the half of the maximum sentence. Good time for conditional release is calculated in the same manner as for parole eligibility. Therefore, for sentences with a maximum of two years or more an inmate must serve one-half of the maximum before being conditionally released. For example, on a three-to-ten year sentence, an inmate will reach his/her conditional release after serving five years and must be released at that time, provided he/she has lost no good time. When an inmate reaches his/her conditional release, the Department of Corrections notifies the Board, which reviews the inmate's file and establishes conditions with which the inmate must comply. The offender is then placed on conditional release and supervised until the maximum sentence date or granted an early discharge by the Board.

Post Release Supervision

The Kansas Legislature imposed a Sentencing Guideline Sentencing Structure, for individuals whose crimes were committed on or after July 1, 1993. This system is determinate in nature, in that the inmate's period of incarceration is predetermined at sentencing. Post release supervision is similar to conditional release. Post release supervision begins when an inmate has served the maximum sentence, less good time credits. Each sentence has its own predetermined period of supervision and the inmate may earn good time in an amount no greater than 15-20% (depending on when the crime occurred) of the sentence, thereby reducing the portion of the sentence that must be served in prison. This amount of time, however, will then be added to the period of post release supervision, so that the entirety of the term will not be affected or reduced. Therefore, since the inmate's release date is predetermined, the Parole Board's role at release is to set the conditions of the supervision period. Once the individual reaches the expiration date of his/her supervision period, the individual's obligation to the state has been satisfied.

Standard and Special Conditions of Supervision

Following is a list of the standard conditions of parole and post release supervision. Each offender is responsible for abiding by the standard conditions of supervision as well as any special conditions the parole board imposes or the parole officer imposes based on individual circumstances.

I agree to:

1. Reporting, Travel, and Residence:

- Report as directed to the assigned parole officer upon release from the institution or detainer and thereafter, report on a regular basis as directed by my parole officer.
- Reside only at my approved plan upon release from the institution and keep my residence there until given permission by my parole officer to relocate.
- Keep my parole officer continuously informed of my residence and employment.
- Obtain advanced permission from my parole officer to travel outside of my assigned parole district or the state of Kansas.

2. Laws:

- Obey all federal and state laws, municipal or county ordinances, including the Kansas Offender Registration Act and the DNA Collections Act.
- Notify my parole officer at the earliest opportunity, if I have any law enforcement contact for any reason.

3. Weapons:

- Not own, possess or constructively possess, purchase, receive, sell or transport any firearms, ammunition or explosive device, any device designed to expel or hurl a projectile capable of causing injury to persons or property, or any weapon prohibited by law.

4. Personal Conduct:

- Not engage in assaultive activities, violence, or threats of violence of any kind.

5. Narcotics/Alcohol:

- Not possess, use, or traffic in any controlled substances or other drugs as defined by law and not prescribed for me by a licensed medical practitioner.
- Not consume any mind-altering substances, including, but not limited to alcoholic beverages, wine, beer, glue, or paint.
- Consent to submit to a blood, Breathalyzer or urine test at the direction of the parole officer.
- Not tamper, falsify or dilute such a test.

6. Association:

- Not associate with persons actively engaged in illegal activity.
- Obtain written permission from the parole officer and institutional administrator to visit or correspond with inmates of any correctional institution.

7. Employment:

- Secure and maintain reasonable, steady employment within 45 days of my release from prison or residential treatment unless excused for medical reasons or an extension of time is given by my parole officer.
- Notify my employer of my current and prior (non-expunged) adult felony convictions and status as an offender.

8. Education:

- Make progress toward or successfully complete the equivalent of a secondary education (GED certificate) if I have not completed such by the time of my release and I am capable, as directed by my parole officer.

9. Costs:

- Pay restitution, court costs, supervision fees, and other costs as directed by my parole officer.

10. Treatment, Programs and Placement:

- Follow any directives given by my parole officer regarding assessment, referral, and placement for treatment, programs, or housing.
- Comply with all aftercare recommendations and my relapse prevention plan.
- Submit to polygraph examinations as directed by my parole officer and/or treatment provider.

11. Victim:

- No contact with the victim(s) in my case(s) or the victim's family by any means including, but not limited to, in person, by phone, via computer, in writing or through a third party without the advance permission of my parole officer.

12. Search:

- Be subjected to a search by parole officers or designated law enforcement officers of my person, residence, and any other property under my control.

Following is an example of the types of special conditions the Board imposes.

I agree to comply with the recommendations for placement in treatment/aftercare per my evaluation from the facility/RADAC.

I agree to enter and successfully complete structured living if no other plan is approved prior to release.

I agree to enter, participate in and successfully complete an outpatient treatment and therapy program specifically related to my sexual offense, as directed by my parole officer.

I agree to have no contact with minor children without the advance permission of my parole officer.

I agree to be monitored by an Electronic Monitoring device and/or house arrest upon release and Until further directed by my parole officer.

I agree to participate in an assessment for appropriate mental health counseling with emphasis on anger control or family violence or domestic violence, and comply with all recommendations.

I agree to participate in mental health counseling.

I agree to participate in family, marriage, or parenting counseling.

I agree to take my medication as prescribed.

I agree to perform (specific number of) hours of community service.

I agree to have no contact with (a particular person or persons) in person, by phone, via computer, in writing or through a third party without the advance permission of my parole officer.

I agree not to return to (a specific county or counties) without the advance permission of my parole officer.

I agree to participate in a substance abuse evaluation, and comply with all treatment/aftercare recommendations as directed by my parole officer.

I agree to remain outside the United States for the duration of my parole, unless my return is authorized by the Attorney General. *(Used for Illegal Immigrants)*

I agree to attend AA/NA/CA meetings (number of times) weekly.

I agree to obtain a sponsor and meet weekly.

Parole, Conditional Release, and Post Release Revocation Hearings

After an inmate has been released on parole, conditional release, or post release supervision, the Secretary of Corrections may issue a warrant when a violation of parole, conditional release or post release supervision has been established. This process is initiated by an offender's Parole Officer,

not by the Parole Board. If the Parole Officer wishes to pursue revocation proceedings, a probable cause, or Morrissey, hearing is conducted by the field parole staff and an impartial hearing officer. If probable cause is found, the offender may be returned to the Department of Corrections' custody. The offender is then scheduled for a revocation hearing before the Parole Board. The offender has the right to have witnesses present who may have information relevant to the alleged violation. If the violation is established to the satisfaction of the Board, it may revoke the parole, conditional release or post release or take any other appropriate action. In the case that the release is revoked, this action could include assessment of a penalty in the nature of further time which the offender must serve before again being considered by the Board for release.

For offenders under post release supervision, the Board is limited in the length of time they can order offenders to serve on a condition violation. For these offenders, depending on when their original conviction occurred, the Board may only revoke for up to 90 days or for 180 days. The exception to these limits is if the violation results from a conviction for a new felony or misdemeanor. Upon receipt of a new felony conviction, in accordance with K.S.A. 75-5217(c), upon revocation the offender shall serve the entire remaining balance of the period of post release supervision even if the new conviction did not result in the imposition of a new term of imprisonment. Upon receipt of a misdemeanor conviction, the Board has the discretion to require the offender to serve a revocation period up to the sentence discharge date.

Waiver of Final Kansas Parole Board Hearing

During the FY 1999 legislative session, K.S.A. 75-5217 (b) was amended to provide post-release supervision violators the option of waiving their final hearing before the Kansas Parole Board. Following arrest, an offender is served documents regarding the pending revocation and has the option to admit guilt and sign a waiver of their right to a hearing before the Board. In doing so, the revocation process for the offender begins at that point, and the revocation period of either 90 or 180 days begins immediately, rather than after the offender appears in person before the Board at a revocation hearing. Offenders who have been granted a parole or conditional release are not eligible to waive their final hearing before the Board.

Waivers accounted for nearly 60% of the total number of violator hearings in FY 2005.

Discharge from Supervision

Offenders sentenced prior to July 1, 1993 can be maintained on supervision up to the expiration of his/her maximum sentence. Pursuant to KSA 22-3722 when an offender has performed the obligations of release for such time as shall satisfy the Board, the parole board may make a final order of discharge but no such order shall be made in any case within a period of less than one year after the date of release. Requests from any source to review an offender for early discharge are considered, however in most cases the offender's supervising Parole Officer initiates this action. If an offender's adjustment has been satisfactory, the Parole Officer may submit a written report, summarizing the offender's conduct while under supervision, which outlines for the Board issues such as employment, compliance with conditions and law enforcement contact. During FY 2005, the Board received 276 requests for discharge. The Board granted 196 of those offenders an early discharge. Without regard to his/her conduct, an offender must be released from supervision at the maximum sentence expiration date in the absence of an early discharge. All those offenders who are sentenced under determinate sentencing are supervised to their sentence discharge date with no discretion for early release. The terms of supervision are from one to three years, depending on the severity level of the offense, and five years for sex offenders.

Maximum Release

When an offender reaches his/her maximum sentence date, the offender's sentence is considered satisfied. The Board has no authority to set any conditions upon the release or to have any control over the offender's conduct. The Department of Corrections, similarly, cannot provide any supervision. Once an offender reaches his/her maximum date the offender's obligation to the State has been satisfied and the Board records this with the issuance of a maximum sentence discharge certificate.

Executive Clemency

Executive Clemency is an extraordinary method of relief and is not regarded as a substitute for parole. An offender who believes that he/she has a deserving case for executive clemency may request the necessary applications from institutional staff. Once completed by the offender, these forms are submitted to the Board, along with the offender's reasons for applying for clemency. As required by law, a notice of the offender's application is forwarded to the official county newspaper in the area of conviction so that interested parties may offer comments. In the event the offender does not have sufficient funds for the cost of this publication, the Department of Corrections bears the cost. Comments are solicited from the sentencing judge and the prosecuting attorney. After the formalities have been accomplished, the Board conducts a file review to determine if a personal interview with the offender is warranted. After reviewing the file, and conducting a hearing (if needed), the Board submits a recommendation to the Pardon Attorney in the Governor's office for the Governor's final action. In FY 2005, 39 clemency applications were reviewed and forwarded to the Governor's Office. The Governor granted no clemencies during FY05.

Functional Incapacitation

KSA 22-3728 allows the Board to consider an inmate for release who is considered functionally incapacitated. An application is submitted by the Department of Corrections and referred to the Board. The application shall not be approved unless the Board determines that the person is functionally incapacitated and does not represent a future risk to public safety. The board shall consider the offender's current condition and whether the condition is terminal, the age and personal history of the offender, the offender's criminal history, the length of sentence and the time served, the nature and circumstances of the current offense, the risk or threat to the community if released, and whether an appropriate release plan has been established. During FY05, the Board reviewed three functionally incapacitated applications.

Statistical Information

The previously listed items are all duties of the Kansas Parole Board. Below, please find the number of Board actions for Fiscal Years 2002, 2003, 2004, and 2005 as well as the projections for fiscal year 2006 for some of the Board's duties:

	FY02 Actual	FY03 Actual	FY04 Actual	FY05 Actual	FY06 Projected
Parole Hearings	1311	1068	1042	720	663
Special Hearings****	160	109	108	102	100
Violator Hearings	1038	1079	980	974	950
Waivers **	1545	1568	1546	1386	1343
Total Hearings	3894	3715	3568	3182	3056
Public Comment Sessions***	60	36	36	36	36
File Reviews*	6996	7598	8141	7672	7800

*File reviews include setting conditions of parole, conditional release and post release supervision as well as decisions regarding clemency recommendations, functional incapacitation applications, sex offender override committee, and all discharges, including those that reach their maximum discharge date.

**Waivers are post-release violators who opt to admit guilt and waive their final revocation hearing before the Kansas Parole Board. As opposed to their revocation period beginning when they see the Board, waivers begin their revocation period at the point in which they sign the waiver. The Board must review the case, vote, and assign conditions of release consistent with other violators.

***In October 2000, the Board added Public Comment sites in Pittsburg and Garden City to the existing Wichita, Kansas City, and Topeka sessions. In July 2002 the Board eliminated the comment sessions in Pittsburg and Garden City.

****Special Hearings are held when the Board feels there is new information to merit reconsideration. This item was not tracked in previous annual reports.

FY 2005 KPB Monthly Hearing Activities

	Violator Hearings	*Waivers	Regular Hearings
July	83	119	12
August	88	129	71
September	67	121	83
October	99	124	78
November	67	101	72
December	81	115	48
January	72	80	46
February	79	76	63
March	98	188	34
April	80	85	50
May	85	129	42
June	75	119	47
	974	1386	720

*Waivers are post-release violators who opt to admit guilt and waive their final revocation hearing before the Kansas Parole Board. As opposed to their revocation period beginning when they see the Board, waivers begin their revocation period at the point in which they sign the waiver. The KPB must review the case, vote, and assign conditions of release consistent with other violators.

Parole Rate of the Kansas Parole Board

The graph shown in Appendix A was provided by the Kansas Department of Corrections from information gleaned from the KDOC database. The graphs represent the parole rate of the Kansas Parole Board, as well as the numbers of condition violators admitted to the KDOC. It is noted that the numbers provided by the Board and the numbers provided by KDOC regarding hearing numbers are not identical. Different methods of entry into the database make for the discrepancy.

The following factors have impacted the parole rate. The percentages are affected as the pool of offenders eligible for a parole decision has decreased since the change in sentencing laws. Furthermore, those inmates who have received extended passes are not being heard every year and, therefore, have no decisions in this annual pool. If they had come before the Board and received a year pass, those pass decisions would decrease the percentages. Next, offenders who have a mix of indeterminate and determinate sentences who have been granted parole to their determinate sentence are counted as a parole decision in the total. Offenders who fall under this category who have been granted a "parole to determinate sentence" decision by the Board are counted as a parole decision in the parole rate calculation but remain in custody to serve the determinate sentence. Therefore, a number of offenders reported in the following graph as "paroles" were not actually released from

custody. Finally, offenders who are revoked for condition violations are typically given a new parole decision after a short pass of a year or less while they serve their penalties.

Extended Passes

In 1997 legislation was passed which enabled the Board to pass offenders convicted of A or B felonies or off-grid offenses for up to 10 years. Previously, offenders convicted of such offenses could only be passed for up to 3 years. In addition, this law enabled the Board to pass offenders convicted of offenses other than A or B or off-grid felonies for up to three years when it could previously only order passes for up to one year.

In FY 2005 the Board utilized the extended pass option in 78 cases, which is 2% of the total hearings.

Extended Passes FY 2002-2005

	1-2 yrs	3 yrs	4 yrs	5 yrs	6 yrs	7 yrs	8 yrs	9 yrs	10 yrs
2005	47	20	0	9	0	0	0	0	2
2004	58	17	0	10	1	1	0	0	6
2003	121	22	1	8	0	0	0	1	3
2002	68	9	1	15	0	0	0	0	6

Kansas Parole Board Victim Awareness

The Kansas Parole Board remains sensitive to the feelings and circumstances surrounding all victims of crime. Every crime victim or victim's family member has a right to be notified of certain circumstances regarding an offender who is sentenced to prison in Kansas. The Department of Corrections is responsible for notifying victims and/or victim's family members of public comment sessions held for offenders convicted of a class A felony, provided that the request has been made to be notified. There are Victim Notification Officers employed by the Kansas Department of Corrections who are specifically responsible for the coordination and notification of victims of crime. Requests for information as to how to be placed on their notification list or for other pertinent information should be directed to:

Victim Notification Officer
Kansas Department of Corrections
Landon State Office Building
900 SW Jackson, Suite 401 North
Topeka, Kansas 66612
Or call (785) 296-3317

All victims can be assured that all notification information is confidential and will be safeguarded in a filing system, which is separate from other files within the Kansas Department of Corrections. The Victim Notification Office must be notified each time a victim or victim's family changes address and/or phone number. The Victim Notification Officer cannot make the proper notification if these changes are not reported. Kansas law requires that the County/District Attorney notify victims of crimes other than Class A felonies of the time and place of the public comment session at least one month before the offender is parole eligible.

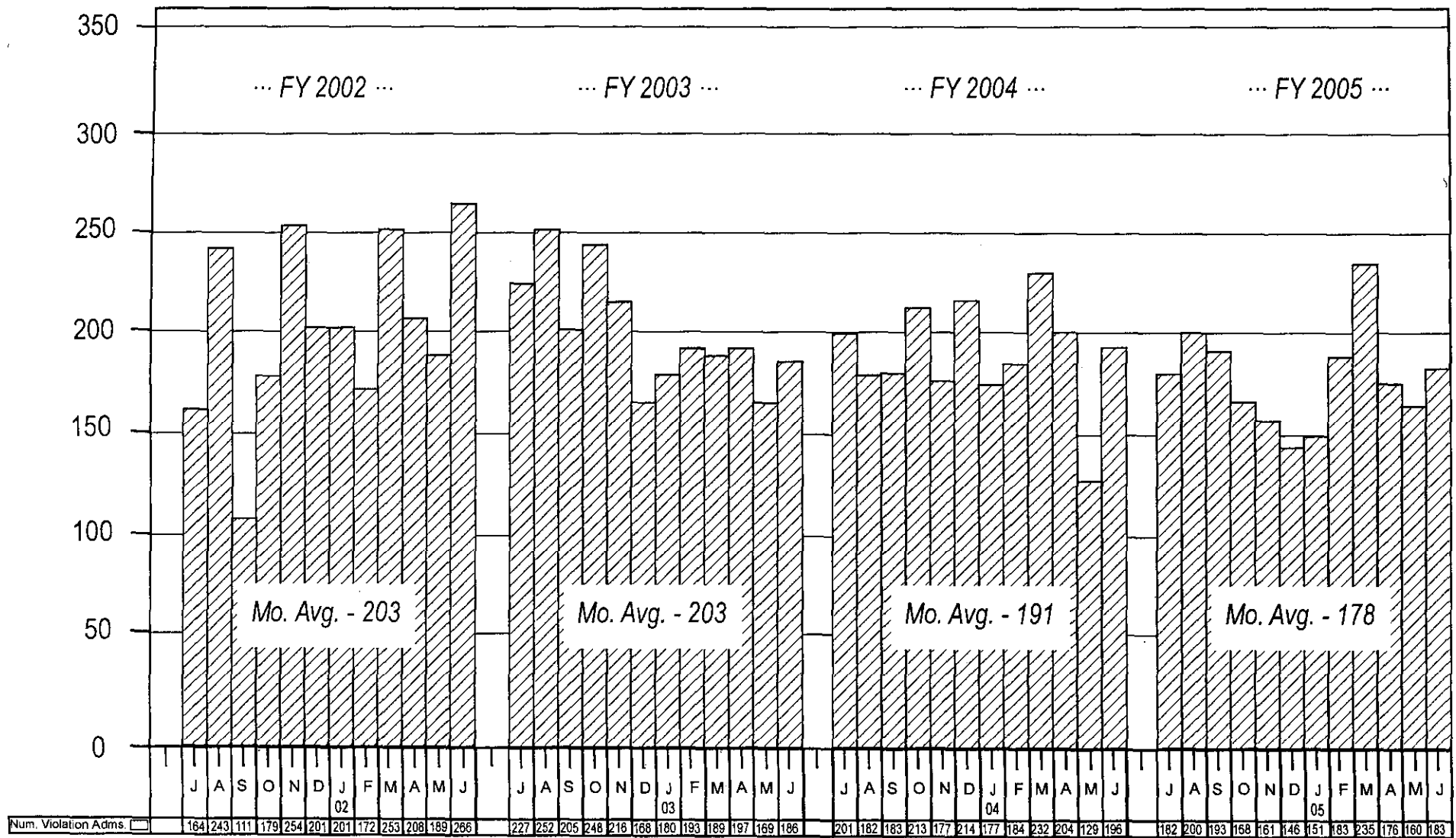
Conclusion

The Kansas Parole Board is an integral part of the Kansas correctional system. As with other jurisdictions in the United States and abroad, the Kansas correctional system is frequently under close scrutiny in a quest for methods of improving and strengthening it. Because of the complexity of the issues involving crime and those who commit crimes, and the ramifications of how those issues are dealt with, the Board endeavors to continue reviewing, modifying and perfecting its own procedures to deal more effectively with offenders, law enforcement officials, victims, families, and the public. Only by taking into full account all of the above circumstances can the Kansas Parole Board accomplish its stated objectives and goals.

The Kansas Parole Board welcomes comments or questions regarding this report or the parole system in Kansas. Contact can be made by calling (785) 296-3469. Written comments or questions may be mailed to: Kansas Parole Board, Landon State Office Building, 900 S.W. Jackson, 4th Floor, Topeka, Kansas 66612.

Kansas Department of Corrections
Graphic Highlights -- Monthly Offender Population Report (June 2005)

**Number of Return Admissions for Condition violations by Month:
FY 2002 - FY 2005***

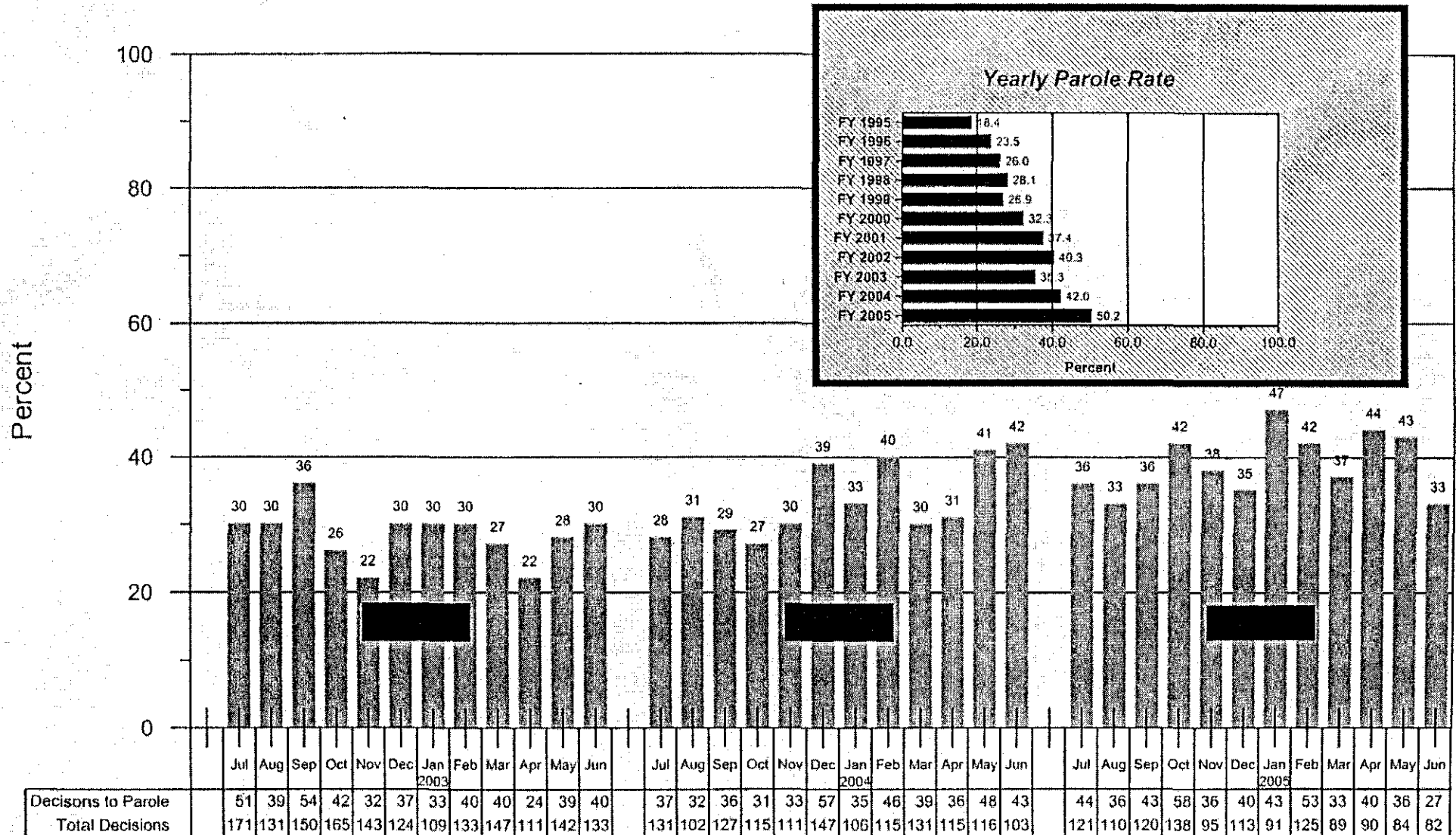


* Total number of admissions for violation of the conditions of release (no new sentence)

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Kansas Department of Corrections

Monthly Parole Rate: Kansas Parole Board Decisions to Parole as a Proportion of Total Decisions, FY 2003 - FY 2005*



*Information pertains to decisions resulting from regular parole hearings (the most recent board decision for each individual). The yearly parole rates are calculated from all regular hearing decisions, and do not necessarily reflect only the most recent decision for each offender.